



MITCHELL E. DANIELS, JR., *Governor*

JAMAL L. SMITH, *Executive Director*

**ICRC NO.: HOha11100678**

**JAMAL L. SMITH, in his official capacity as  
EXECUTIVE DIRECTOR of the  
INDIANA CIVIL RIGHTS COMMISSION,**  
Complainant,

vs.

**ORCHARD HILLS, LLC.,**  
[REDACTED] and  
**ICON PROPERTIES, LLC.,**  
Respondent.

**NOTICE OF FINDING and  
ISSUANCE OF CHARGE**

The Executive Director of the Indiana Civil Rights Commission ("Commission"), pursuant to statutory authority and procedural regulations, hereby issues the following findings with respect to the above-referenced case. Reasonable cause exists to believe that an unlawful discriminatory practice has occurred. A Charge is therefore issued in accordance with 910 IAC 2-6-6(b).

On October 19, 2011, [REDACTED] ("Complainant") filed a complaint with the Commission against Orchard Hills, LLC, [REDACTED] and Icon Properties, LLC ("Respondent") alleging discrimination on the basis of disability, in violation of the Indiana Fair Housing Act (IC 22-9.5, et seq), the Indiana Civil Rights Law (IC 22-9, et seq) [REDACTED]. Accordingly, the Commission has jurisdiction over the parties and the subject matter of this complaint.

An investigation has been completed. Both parties have had an opportunity to submit evidence. Based on the final investigative report and a review of the relevant files and records, the Executive Director now finds the following:

The issue before the Commission is whether Respondent failed to make a reasonable accommodation for Complainant and/or her daughter's disability. In order to prevail on such a claim Complainant must show that 1) she falls within a protected class, 2) Complainant requested a reasonable accommodation for her or her daughter's disability and 3) Respondent denied or unreasonably delayed Complainant's request for a reasonable accommodation without showing an undue burden.

The evidence confirmed that both Complainant and her daughter had disabilities as defined by the civil rights laws. Complainant requested a reasonable accommodation for her daughter and herself. The record showed that Complainant made a verbal request for a first floor apartment, due her daughter's disability. Respondent was agreeable to this accommodation. However, when Complainant was notified that a first floor apartment was available, she informed



Respondent that she had recently been diagnosed with cancer and requested that she be allowed to terminate her lease early so that she could move in with family. Respondent allowed Complainant to terminate the lease but charged her the associated fee for early termination. Early termination of a lease for reasons related to a disability should not be subject to the same fees as termination for reasons not related to disability. A reasonable accommodation would have been for Respondent to waive such fees in consideration of the medical need for the early termination of lease.

This evidence establishes reasonable cause to believe that Respondent has violated the Indiana Civil Rights Law, the Indiana Fair Housing Act, and the Federal Fair Housing Act. As permitted by 910 IAC 2-6-6(h), *any* party to this complaint may elect to have the claims asserted in this Charge decided in a state court, in lieu of an administrative proceeding under 910 IAC 2-7. Such an election must be made no later than twenty (20) days after service of this Notice. The notice of election must be filed with the Commission and served on the Director, the Respondent and Complainant.

If such an election is not timely made, an administrative hearing of this matter will be scheduled by the Administrative Law Judge. Respondents shall have an opportunity to file an answer to this charge within thirty (30) days of service of this Charge. [REDACTED] **and any other person aggrieved by this alleged discriminatory practice may participate as a party in the hearing by filing a request for intervention.** All discovery in this matter must be completed fifteen (15) days prior to the date of hearing.

*If at any time following service of this charge Respondents intends to enter into a contract, sale, encumbrance, or lease with any person regarding the property that is the subject of this charge, Respondents must provide a copy of this charge to the person prior to entering into such contract, sale, encumbrance or lease. 910 IAC 2-7-4(e)(3)*

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Date

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Jamal L. Smith  
Executive Director  
Indiana Civil Rights Commissio